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Mark A. Bradley,
Associate Deputy Administrator,
Transportation and Marketing Programs
National Organic Program
1400 Independence Ave., SW.,
Room 4008-So., Ag Stop 0268,
Washington, DC 20250

Docket number TM-05-14

Dear Mr. Bradley,

I write as a consultant to the organic industry, with over 16 years experience in organic certification, materials review and technical support to farmers. Thank you for the opportunity to comment on the ANPR posted on the Federal Register on April 13th 2006 on Access to Pasture.

I support the comments submitted by the Northeast Organic Dairy Producers Alliance (NODPA) in conjunction with the Midwest Organic Dairy Producers Association (MODPA) and the Western Organic Dairy Producers Alliance (WODPA). They have provided detailed responses to the many questions posed, and I am aware of substantial consultation they engaged with their membership and the organic community at large. This is a substantive, well reasoned effort, and should be considered carefully. In addition, I recommend the compiled response of the NOSB, in their Nov. 17 2005 amended recommendation on pasture requirements. They included a useful bibliography of scientific studies supporting the benefits of pasture for ruminant animals and for the humans that consume those livestock products.

This is a difficult issue to resolve but it is critical that it be clarified now, after many years of discussion. I would like to point out that questions regarding outside access and pasture have been posed before, in a notice in the October 24, 1998 Federal Register, to which there were 10,817 responses. Many specific questions were asked at that time, such as should specific space requirements be set for different species, should confined animal feeding operations be prohibited, what would the economic impact be, how would certifiers monitor confinement, etc. These comments were not all summarized, but in the preamble to the March 13, 2000 proposed rule, the USDA notes:

“The vast majority of commenters strongly indicated that protection of an animal's welfare or the soil and water resources of the operation were the only appropriate conditions for restricting access to the outdoors. Furthermore, many commenters stated that the condition and properties of the outdoor area to which an animal receives access,

such as the nutritional content of pasture, must be important considerations in developing livestock production standards.... The NOSB specified that the stage of an animal's production is not intended to include the lactation cycle of dairy animals in which only dry cows would be allowed access to the outside and pasture. The NOSB recommended and we propose that when there is a risk to soil or water quality, livestock should be temporarily confined... We are also incorporating the NOSB recommendation that ruminants receive access to pasture during the periods they are not temporarily confined” (FR 65:13547)

There is a clear record of public concern and NOSB recommendations on this issue, and it is warranted to further address this issue in a timely manner now.

My responses below focus on the questions on scope of the ANPR, and measurement of compliance, due to my experience in certification.

(1) Is the current role of pasture in the NOP regulations adequate for dairy livestock under principles of organic livestock management and production?

The requirements for access to pasture are being enforced inconsistently by different certification agencies, without correction through the accreditation process. Clarification of the requirements will allow for uniform enforcement and a level playing field for all producers. The NOSB adopted a set of principles in 2001 that states: “The basis for organic livestock production is the development of a harmonious relationship between land, plants, and livestock, and respect for the physiological and behavioral needs of livestock.” Ruminant animals are, by definition, grazing animals. These principles are not met in a system that restricts grazing ruminants to feedlots or supplies insignificant amounts of pasture intake.

(2) If the current role of pasture as it is described in the NOP regulations is not adequate, what factors should be considered to change the role of pasture within the NOP regulations?

Minimum pasture intake should be required. This can be done most easily by specifying a minimum number of days on pasture per year, along with a measure of the amount of feed obtained from pasture. This will be the most reasonable way to take into account regional differences in climate and production potential. The associations of dairy producers and NOSB have both supported a practical method to do this: see language below under question (3). One simple change, which NOP endorsed in the preamble to the March 2000 proposed rule yet did not explicitly incorporate, is that access to pasture is required for lactating cows, in other words, that lactation is not a “stage of production” subject to allowance for temporary confinement.

(3) Which parts of the NOP regulations should be changed to address the role of pasture in organic livestock management? Pasture appears in the NOP definitions (subpart B, section 205.2), and in subpart C of production and handling requirements under livestock feed (section 205.237), livestock healthcare (section 205.238), and livestock living conditions (section 205.239). Should the organic system plan requirements (section 205.201) be changed to introduce a specific means to measure and evaluate compliance with pasture requirements for all producers of dairy or other livestock operations? Or, should a new standard be developed just for pasture alone?

No additional changes are needed to §205.201, which already requires description of practices and procedures, adequate recordkeeping, and monitoring practices. Livestock operations will need to outline in detail their pasture system, including management, pasture acreages, animal numbers, and planned DMI intake, in their organic system plans.

Changes to the regulation should be made as follows, as NOSB and NODPA have recommended. (Additions underlined, deletions struck out):

Subpart A - Definitions

Growing season for pasture. The time(s) of year when pasture growth is possible from natural precipitation or irrigation.

Dry matter intake (livestock feed). The quantity of total feed intake measured on a moisture-free basis in order to provide a consistent basis for comparison.

§ 205.237 Livestock feed.

(b) The producer of an organic operation must not:

(7) Prevent dairy animals from grazing pasture during lactation, except as allowed under §205.239(b).

(c) Ruminant livestock must graze pasture for the growing season but not less than 120 days per year. The grazed pasture must provide a significant portion of the total feed requirements but not less than 30% of the dry matter intake on an average daily basis during the growing season.

§ 205.239 Livestock living conditions.

(a) The producer of an organic livestock operation must establish and maintain livestock living conditions which accommodate the health and natural behavior of animals, including:

(1) Access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of ~~production~~ life, the climate, and the environment;

(2) Access to pasture for ruminants, as required in 205.237(c).

(b) The producer of an organic livestock operation may provide temporary confinement for an animal because of:

(2) The animal's stage of ~~production~~ life; for ruminants this includes only:

(i) birthing;

(ii) dairy animals up to 6 months of age; or

(iii) beef animals during a final finishing stage not to exceed 90 days.

Questions on Measurement, Enforcement, and Compliance

(1) How would an accredited certifying agent appropriately measure compliance with specific measures adopted to change the role of pasture? For example, if dry matter intake is used as a benchmark, should it be measured as the average DMI over a certain time period, such as a calendar year or average 12 months?

The certifier already must review feed records, to verify organic sources of all feeds. Certifiers also routinely inspect the conditions of pastures, including the size, quality, and whether any problems such as soil erosion or overgrazing are evident. Certifiers already know the number of animals, stage of production and living conditions for animals. Farmers routinely calculate their

feed nutrients very closely in order to maximize production and control costs. **It is not an undue burden for farmers to provide this information, nor will it be difficult for certifiers to monitor.**

Dry matter intake can be measured by animal per day or can be calculated as an average DMI over the full growing season. If the DMI is measured as an average over the growing season, then there may be some days in that average where intake will be less than 30%, compensated by days when it is over 30%. This will give flexibility needed to monitor a natural system. A farmer could keep records that indicate the feeding plans per day or week, and indicate when days occur that are over or under the 30% DMI intake level. The certification agent can spot check records over the growing season to verify daily compliance, and check season averages if average daily intake is low at times.

(2) How should producers and certifying agents verify compliance over time for a herd of cows that are at various stages of growth or have varying states of nutritional needs?

A simple calculation sheet can be created that producers can use to determine the measurable amount of dry matter needed per average cow per day (24-hour period) for the growing season (120-day minimum time). It would not be necessary to work down to an individual cow level. The DMI measurement can be calculated by *the back-calculation method*--what the farmer was feeding the cows in the non-grazing season compared to what the farmer is feeding the cows in the growing season to supplement the pasture. The difference between the two would be the *average DMI* per animal per day for each group of animals. (See Appendix for simple forms used to calculate DMI). The producer will be able to document when the livestock were put on pasture for the season and when the cows were taken off pasture, or the date when the pasture was no longer providing 30% or more of the daily DMI. Again, this can be indicated with an increased amount of supplementation in the producer records.

(3) Can the producer and certifying agent determine this in the organic system plan?

The plan can and should be laid out in the operation's organic system plan but compliance must be verified through the annual certification process such as annual reports of dates animals are on pasture, inspection of pastures for feed value, and annual feed records that are already a part of organic certification.

Conclusion:

Clarification of the requirements for access to pasture for organic animals is needed in order to strengthen and enforce pasture requirements for organic ruminants. This will create a level playing field that will help maintain consumer confidence. While the organic milk supply may take a bit of time to catch up with consumer demand, the alternative of loss of demand due to lack of differentiation with conventional milk must be avoided. Organic milk is a key product that is the gateway for other organic sales, and the standard requiring access to pasture is a key to ensuring healthier cows and the health benefits claimed for organic milk. One must have a long-term perspective in adopting standards now that will support the industry and consumer expectations in years to come.

The proposed requirement for 120 days of grazing to supply 30% dry matter intake is a verifiable and reasonable minimum standard that is supported by dairy farmers. USDA should move forward as expeditiously as possible with proposed rulemaking in order to put this controversy behind us, and enable the organic industry to expand and move forward.

Sincerely,

Emily Brown Rosen

Appendix: Methods for estimating Dry Matter Intake
Source: Vermont Organic Farmers, LLC

Estimating Dry Matter Intake for Dairy cows

*Example of how to calculate DMI based upon the weight of the cow,
and average milk production per cow.*

A herd of 100 cows, average weight = 1000 lb/cow, producing 50 lbs of milk. A cow of this size will consume, on average, 3% of her bodyweight per day in Dry Matter.

* $1000 \text{ lbs} \times .03 = 30 \text{ lbs dry matter consumed per cow per day (DM Basis)}$

If 30% of the total DMI is to be consumed by pasture:

* $30 \text{ lbs} \times .30 = 9 \text{ lbs per cow per day (DM Basis)}$

$100 \text{ cows} \times 9 \text{ lbs DM/cow/day} = 900 \text{ lbs DM needed per day for the herd of 100 cows}$

* Note: Pasture, on average is 20% dry matter. With this value, the 9 lbs of pasture on a dry matter basis is equal to 45 lbs of fresh pasture per cow.

Estimated Dry Matter Intake by Subtraction Method

Herd Average Dry Matter Intake

Non-Grazing Feed Ration

Average lbs of Hay consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Balage consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Corn Silage consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Grain Consumed #1 _____ x _____ % Dry Matter =
_____ lbs Dry Matter

TOTAL LBS DRY MATTER

Grazing Feed Ration

Average lbs of Hay consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Balage consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Corn Silage consumed _____ x _____ % Dry Matter =
_____ lbs Dry Matter

Average lbs of Grain Consumed #1 _____ x _____ % Dry Matter =
_____ lbs Dry Matter

TOTAL LBS DRY MATTER

Non-Grazing Feed Ration – Grazing Feed Ration = Estimated Pasture Dry Matter Intake
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